

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nicole Weinstock	Team: Team # 3	CCRB Case #: 200914445	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/16/2009 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 3/16/2011	EO SOL 3/16/2011	
Date/Time CV Reported Wed, 09/16/2009 11:25 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/16/2009 11:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			NARCBBN
2. CPT Michael Lipetri	00000	906647	NARCBBN
3. An officer			NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Edward Mercado	03064	930726	NARCBBN
2. SGT Daniel Sbarra	05029	920813	NARCBBN
3. DT3 Matthew Savage	06484	926077	NARCBBN
4. DT3 James Delumen	03621	922213	NARCBBN
5. DT3 Fawad Khan	07739	925537	NARCBBN
6. DT3 Frank Galati	02819	928335	NARCBBN
7. DT3 Andrew Erato	02395	925243	NARCBBN
8. DTS Nuruddin Abdurrahim	00112	924858	NARCBBN
9. DT3 Vincent Barese	01540	927899	NARCBBN
10. POF Tina Everett	19071	927973	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.CPT Michael Lipetri	Abuse: Cpt. Michael Lipetri supervised the entrance and search of § 87(2)(b) in Brooklyn.	
B. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b) and § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
D. An officer	Force: An officer tightly handcuffed § 87(2)(b)	
E. An officer	Force: An officer struck § 87(2)(b) with a shotgun.	
F. Officers	Abuse: Officers refused to provide their names and shield numbers to § 87(2)(b) and § 87(2)(b)	
G. An officer	Discourtesy: An officer gestured obscenely toward § 87(2)(b) and § 87(2)(b)	

### Case Summary

On September 16, 2009, § 87(2)(b) filed this complaint with the CCRB via telephone (encl. 9-11). On September 18, 2009, § 87(2)(b) also filed this complaint with the Internal Affairs Bureau (IAB) generating log 09-46456 (encl. 7-8). This IAB log was forwarded to the CCRB.

On September 16, 2009, at approximately 6:00 a.m., officers from Brooklyn North Narcotics Division entered § 87(2)(b) in Brooklyn. The officers were executing a search warrant. The following allegations resulted:

- **Allegation A-Abuse of Authority:** Cpt. Michael Lipetri supervised the entrance and search of § 87(2)(b) in Brooklyn. § 87(2)(g)
- **Allegation B-Discourtesy:** Officers spoke obscenely to § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation C-Force:** Officers used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation D-Force:** An officer tightly handcuffed § 87(2)(b) § 87(2)(g)
- **Allegation E-Force:** An officer struck § 87(2)(b) with a shotgun. § 87(2)(g)
- **Allegation F-Abuse of Authority:** Officers refused to provide their names and shield numbers to § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation G-Discourtesy:** An officer gestured obscenely toward § 87(2)(b) and § 87(2)(b) § 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

##### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on October 8, 2009 (encl. 28-33). On September 16, 2009, at approximately 5:45 a.m., § 87(2)(b) heard banging on the front door of her apartment located at § 87(2)(b) in Brooklyn. § 87(2)(b) and her husband, § 87(2)(b) heard a third bang, they left their bedroom and walked into the hallway. The couple stopped approximately two feet from the front door of the apartment and

observed approximately five to six officers enter the apartment. At least one officer was wearing a jacket that had “ATF” written on it. PO 1, a white male, who was 5’7” tall, weighed approximately 180 pounds, and remains unidentified, stated, “Get on the fucking ground and show your hands.”

As the officers entered the apartment, § 87(2)(b) grabbed a hold of § 87(2)(b). § 87(2)(b) was pushed away and § 87(2)(b) was pushed and dragged back into the bedroom by PO 1. In the bedroom, PO 1 took § 87(2)(b)’s left hand and lifted it behind her back and over her head as she was pushed to the floor, landing on her stomach, with PO 1 still holding her left arm. She added that there was someone placing pressure on her neck, but could not be more specific as to what was being done or who was doing this. While on the ground, § 87(2)(b) observed an officer, whose description was unknown, punch § 87(2)(b) in the mouth after he screamed about how PO 1 was treating her. § 87(2)(b) began to bleed. § 87(2)(b) was screaming that there was no gun and that there were children present. An unknown officer stated, “Shut the fuck up.” § 87(2)(b) was placed in handcuffs. PO 1 lifted her off the floor by her pants and frisked her. § 87(2)(b) walked out of her bedroom on her own and sat in the living room. § 87(2)(b), § 87(2)(b)’s niece, was sitting in a chair in handcuffs and § 87(2)(b), § 87(2)(b)’s son, was lying on the floor. § 87(2)(b) stated that the family dog, a one year old Rotweiler mix, was in the bathroom. He also told the family that the officers had used pepper spray on the dog, and that he had felt the spray as well. No family member observed this occur. § 87(2)(b) was placed in handcuffs and § 87(2)(b) was brought into the living room. § 87(2)(b) then noticed an injury below § 87(2)(b)’s eye. The injury below § 87(2)(b)’s eye was on the same side of his face as the injury to his mouth and that the entire side of his face was swollen.

Cpt. Michael Lipetri, who was identified as from his shield, stated that the officers were searching the apartment and that the family was under arrest until the officers finished with their investigation. § 87(2)(b) noted that the apartment was destroyed as the officers had dislocated the stove and thrown around food and clothing.

One of the officers took § 87(2)(b) into a room alone and asked where his gun was. § 87(2)(b) denied that there was a gun in the home. The same officer of unknown description told § 87(2)(b) that § 87(2)(b) was seen on a camera the previous day outside of the building with a gun. § 87(2)(b) stated that § 87(2)(b) had never carried a gun or brought one into their home. The officer insisted that there was a gun the previous day. At some point, § 87(2)(b) informed § 87(2)(b) that a male officer had searched her.

Approximately thirty minutes to an hour after the officers arrived at the home, Daphne Wiggins, a neighbor who lives on the floor, began knocking on the door as she had heard the officers. An officer spoke with § 87(2)(b) but would not allow § 87(2)(b) and § 87(2)(b) to speak. § 87(2)(b) wanted to take § 87(2)(b) and § 87(2)(b). The officer initially refused this request, but eventually allowed it. After § 87(2)(b) and § 87(2)(b) left the apartment, the officers continued to search the house. Cpt. Lipetri had a paper in his hand. § 87(2)(b) asked what the paper was. Cpt. Lipetri explained that it was a search warrant and that someone had gone to court and swore that a gun was present in the home. § 87(2)(b) stated that she wanted to read it. Cpt. Lipetri held the search warrant approximately four feet from her face so she could read it. The officers finished searching the apartment, removed the handcuffs from § 87(2)(b) and § 87(2)(b) and simply left the apartment at approximately 9:00 a.m. § 87(2)(b) and § 87(2)(b) remained in their living room and no member of the family was taken to the 73<sup>rd</sup> Precinct stationhouse. § 87(2)(b) believed that § 87(2)(b) asked for the officers’ names. The officers replied that the information was none of § 87(2)(b)’s business and if he was arrested, he would receive the information. § 87(2)(b) informed § 87(2)(b) of this after this incident.

As soon as the officers left, § 87(2)(b) heard her § 87(2)(b)-old daughter, § 87(2)(b) screaming out the hallway window at the officers. § 87(2)(b) ran to the window and observed § 87(2)(b) asking the officers why they searched the apartment. PO 3, a Hispanic male, who was 5'7" tall, had a muscular build, curly hair, was wearing camouflage shorts and sneakers, and remained unidentified, was laughing with the rest of the officers. PO 3 then raised his middle finger in an upward direction at the § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) went to § 87(2)(b) later that day. § 87(2)(b) complained of pain to her left arm and neck and was given pain medication and a relaxant for her anxiety. § 87(2)(b)'s face was treated for the injuries he sustained. § 87(2)(b) also went to see her private doctor around § 87(2)(b). Her doctor gave her Percocet and counseling.

#### **Attempts to Schedule Photo Array**

§ 87(2)(b) failed to arrive at the CCRB for her photograph viewing, which was scheduled for March 12, 2010. She did not call beforehand to cancel or reschedule. Two calls were made to § 87(2)(b) in an attempt to schedule a new appointment and a letter was sent. A week after § 87(2)(b)'s missed photograph viewing she left a message at the CCRB asking to schedule a new appointment. The undersigned left a voicemail message for § 87(2)(b). Approximately three weeks later, § 87(2)(b) left another message at the CCRB asking to schedule an appointment to view photographs. Her call was returned and voicemail messages were left at two of the three telephone numbers she provided. Two weeks later, § 87(2)(b) left another message at the CCRB asking to schedule an appointment to view photographs. Her call was returned and a voicemail message was left. To date, § 87(2)(b) has not cooperated to view photographs.

#### **Victim:** § 87(2)(b)

- § 87(2)(b)

#### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on October 7, 2009 (encl. 12-23). § 87(2)(b) (g)  
On the date of the incident, officers entered § 87(2)(b)'s apartment and shouted, "Hands. Hands. Get on the fucking floor." PO 1, an officer of unknown description and who remains unidentified, pushed § 87(2)(b) and § 87(2)(b) into a wall with his shield. § 87(2)(b) and § 87(2)(b) walked to their bedroom.

In the bedroom, PO 2, who was approximately 6'1" tall, over 200 pounds, wore a mask, and remains unidentified, stood on § 87(2)(b)'s neck while another officer placed her in plastic handcuffs. § 87(2)(b) was also placed in plastic handcuffs then lifted from the bed by his handcuffs. § 87(2)(b) and § 87(2)(b) were walked to the living room. He began to yell that his handcuffs were too tight. An officer of an unknown description tightened the handcuffs.

In the living room, § 87(2)(b) repeatedly asked the officers what precinct they were from, but was never given an answer. He asked the officers what was going on, but only Cpt. Lipetri, who was identified from his badge, would respond to him. § 87(2)(b) asked the officers for their names. Some officers stated that their names were not important while others stated that § 87(2)(b) should ask their boss all questions.

While the officers were searching the apartment, § 87(2)(b) was shown the search warrant, as it was held up approximately 6 inches from her face, but she was never given a chance to read it. Towards the end of this incident, an officer of unknown description held up the search warrant approximately six inches from § 87(2)(b)'s face and instructed her to sign it. § 87(2)(b) objected to this but she signed the warrant.

At some point while § 87(2)(b) was in the living room, PO 3, a Hispanic male, who was 5'10" tall, weighed approximately 240 pounds, had a low haircut, was wearing a biker ring and a tattoo shirt with a motorcycle on it, and remains unidentified, hit § 87(2)(b) with the back of a shotgun on his jaw, § 87(2)(b) later stated that he was hit on his right cheekbone, and stated, "Shut the fuck up."

§ 87(2)(b) stated that the televisions, bed, dresser, nightstand were broken in his bedroom. § 87(2)(b) was missing her tennis bracelet, wedding ring and benefit card. A cell phone that was no longer in service was also missing. § 87(2)(b) went to § 87(2)(b) later that day as well as on a later date. X-rays were taken and were negative. § 87(2)(b) provided pictures of his injuries as well as of the home with belongings strewn. The only photograph that showed damage to the apartment was of the apartment door.

#### **Attempts to Schedule Photo Array**

§ 87(2)(b) was uncooperative when it came to viewing photographs. § 87(2)(b) scheduled an appointment for § 87(2)(b) at the same time as she scheduled an appointment for herself (March 12, 2010). § 87(2)(b) never arrived for this appointment. During each subsequent call and message, § 87(2)(b) never returned the call or scheduled a new photograph viewing for himself.

#### **Victim:** § 87(2)(b)

- § 87(2)(b)

#### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on October 8, 2009 (encl. 24-27). § 87(2)(g)  
On the date of the incident, officers entered § 87(2)(b)'s apartment and shouted, "NYPD, NYPD."

PO 1, a white male holding a shield, and remains unidentified, entered § 87(2)(b)'s room. PO 1 placed his shield on § 87(2)(b)'s back and instructed her to put her hands behind her back. As she took out her left arm from under her, PO 1 grabbed her right arm and placed § 87(2)(b) in handcuffs. PO 1 pulled § 87(2)(b) up from the bed by her arms. She then walked out into the living room on her own.

A time later, PO 2, a Hispanic male, who was approximately 5'9" tall, had a heavy build, was wearing shorts and a vest, and remains unidentified, took § 87(2)(b) into the bathroom. He asked her if she did any drugs or if there were guns in the house before frisking her. § 87(2)(b) returned to the living room.

When § 87(2)(b) left the apartment, she observed the officers talking and laughing in the hallway. On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) for the pain in her arm. She was diagnosed with a muscle strain and will return for x-rays.

#### **Victim:** § 87(2)(b)

- § 87(2)(b)

#### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on February 16, 2010 (encl. 34-39). On the date of incident, a few minutes before 7:00 a.m., § 87(2)(b) received a call from one of her sisters instructing her to go to the family's apartment. § 87(2)(b) ran over to § 87(2)(b)'s home and arrived between 7:15 a.m. and 7:20 a.m.

When § 87(2)(b) arrived in the hallway in front of § 87(2)(b)'s apartment, she observed approximately seven officers in plainclothes and vests in the hallway outside of § 87(2)(b).

§ 87(2)(b)'s apartment. § 87(2)(b) asked PO 1, a black male, who was approximately 6'1" tall, had a stocky build, glasses, appeared to be in his early 30s, and remains unidentified, what department or division he was from. PO 1 responded that they were not from a division. § 87(2)(b) later stated that PO 1 did not answer her. § 87(2)(b) remained in the hallway for approximately ten minutes. She later stated that the officers were laughing at every question she asked.

§ 87(2)(b) observed § 87(2)(b)'s mouth bleeding and he had a fat lip. § 87(2)(b) asked her mother if she was shown a warrant. § 87(2)(b) stated that she was not shown anything. § 87(2)(b) then approached PO 2, a white male, who was 6'1" tall, had a slim build, dark brown hair, appeared to be in his late 30s or early 40s, and remains unidentified, and stated, "Did you show my mom a warrant? Can I see a warrant?" PO 2 responded that § 87(2)(b) did not have to be shown anything as she was not the head of the household. § 87(2)(b) explained that her mother, the head of the household, did not see the warrant. PO 2 replied that he did not have to show § 87(2)(b) anything.

§ 87(2)(b) went into the hallway and approached PO 34, a tan complexion Hispanic male, who was approximately 5'7" tall, chunky, had a goatee, black hair, appeared to be in his late 20s or early 30s, and remains unidentified. She asked PO 3 if anything was found, but he did not answer. She then asked PO 3 for his badge number. He stated that he did not have to give her anything and not to worry what, if anything, was found. § 87(2)(b) stated that she wanted a copy of the warrant. The officers left at approximately 7:45 a.m.

§ 87(2)(b) stated that she yelled something nasty out the window at the officers, but could not recall what it was. PO 3 responded, "Have a nice time cleaning up." That was the end of the interaction. At some point that day, § 87(2)(b) and § 87(2)(b) went to § 87(2)(b).

#### **Attempts to Schedule Photo Array**

§ 87(2)(b) failed to arrive at the CCRB for her photograph viewing, which was scheduled for March 12, 2010. She did not call beforehand to cancel or reschedule. A letter was sent. § 87(2)(b) was contacted via telephone and a new appointment was scheduled for March 18, 2010. § 87(2)(b) failed to arrive at the CCRB for this photograph viewing as well. As of the writing of this report, § 87(2)(b) has failed to contact the CCRB to schedule another photograph viewing.

#### **Attempts to Contact Civilians**

On September 24, 2009, § 87(2)(b) arranged an interview for herself and § 87(2)(b) for October 8, 2009. On October 8, 2009, § 87(2)(b) failed to arrive at the CCRB for his scheduled interview. He did not call beforehand to cancel or reschedule. On the same date, § 87(2)(b) scheduled a new interview for § 87(2)(b) for October 13, 2009, and stated that she would accompany him to that interview. On October 13, 2009, § 87(2)(b) and § 87(2)(b) failed to arrive at the CCRB for § 87(2)(b)'s scheduled appointment. They did not call beforehand to cancel or reschedule.

#### **NYPD Statements:**

##### **Subject Officer: CPT. MICHAEL LIPETRI**

- § 87(2)(b) *year-old white male, 5'9" tall, 165 pounds, with brown hair and blue eyes.*
- *On the date of incident, assigned to Brooklyn North Narcotics, commanding officer for the 79<sup>th</sup> and 81<sup>st</sup> Precinct Modules. He worked from 4:30 a.m. to 12:30 p.m. in plainclothes and an unmarked rental vehicle.*

#### **Memo Book**

At the time of this incident, Cpt. Lipetri was not keeping a memo book or activity log.

### **CCRB Statement**

Cpt. Michael Lipetri was interviewed at the CCRB on March 10, 2010 (encl. 62-64). Cpt. Lipetri spoke generally as he took part in 105 search warrants in 2009 and during his tenure in narcotics, he has supervised over 250 warrants. On September 16, 2009, at approximately 6:00 a.m., Cpt. Lipetri was the overall supervisor of the entry into § 87(2)(b) in Brooklyn. The warrant was a no knock warrant for a gun. Cpt. Lipetri stated that no officer was carrying a shotgun or rifle for this warrant.

Cpt. Lipetri stated that when he first entered the apartment, he observed a black male and a black female, identified through investigation as § 87(2)(b) and § 87(2)(b) in the bedroom in handcuffs. He did not recall any other civilians, or children, in the apartment or if there were any animals. Cpt. Lipetri did not state, “Get on the fucking floor,” or hear this stated. Cpt. Lipetri did not push § 87(2)(b) or § 87(2)(b) into a wall or the floor, nor did he observe any other officer do this. He did not punch § 87(2)(b) in the face or observe any other officer do this. Cpt. Lipetri did not use any physical force on § 87(2)(b)'s neck, nor did he observe any other officer do this. He stated that no pepper spray was used. § 87(2)(b) never stated that his handcuffs were too tight. Cpt. Lipetri did not tighten § 87(2)(b)'s handcuffs or observe any other officer do this.

Cpt. Lipetri had a discussion with § 87(2)(b) and § 87(2)(b) at some point when they were all in the living room. § 87(2)(b) and § 87(2)(b) stated that they knew who had done this to them. He did not recall if § 87(2)(b) or § 87(2)(b) asked to see the warrant. However, he always had the warrant with him and showed it to the person who was named in the warrant or someone who lived in the location. He did not specifically recall showing them the warrant, but he stated that he always showed the warrant, especially when a search was negative.

Cpt. Lipetri did not hit § 87(2)(b) with a gun, nor did he observe any other officer do this. He never stated, “Shut the fuck up,” nor did he hear any other officer state this. He did not recall being asked for his name and noted that he did not have a shield number. Cpt. Lipetri did not hear anyone ask any officer for his or her information. He explained that if he was asked for his information, he would provide it and ample time to record the information. Cpt. Lipetri did not observe any injuries on § 87(2)(b) or § 87(2)(b). He stated that if he had observed any injuries on a civilian or an officer, an ambulance would have been called.

Cpt. Lipetri searched the bedroom, as it was believed that was where the gun was, but did not believe that there was any destruction. The incident ended when the officers left and returned to base. Cpt. Lipetri did not observe § 87(2)(b) or § 87(2)(b) leave the apartment. He stated that when the officers left the apartment, there were males and females in the hallway. Cpt. Lipetri did not interact with these civilians in the hallway, nor did he observe any other officer interact with them. He did not show his middle finger to any individual nor did he observe this.

### **Witness Officer: DET. EDWARD MERCADO**

- § 87(2)(b) year-old Hispanic male, 5’9” tall, 215 pounds, with black hair and brown eyes.
- On the date of incident, assigned to Brooklyn North Narcotics, bunker team for a search warrant for the 81<sup>st</sup> Precinct Module. He worked from 3:27 a.m. to 12:00 p.m. in plainclothes and an unmarked rental vehicle.

### **Memo Book**

Det. Mercado’s memo book is summarized as follows: At 5:25 a.m., he was en route to the 73<sup>rd</sup> Precinct stationhouse in regard to a tactical in rental auto 3000. At 5:30 a.m., he was at the 73<sup>rd</sup> Precinct stationhouse with the field team regarding a tactical meeting. At 5:50 a.m., he

was en route to § 87(2)(b) At 6:00 a.m., a search warrant was executed at § 87(2)(b) At 8:15 a.m., he was en route to Brooklyn North Narcotics. At 8:20 a.m., he arrived at Brooklyn North Narcotics (encl. 40-41).

### **Search Warrant**

Det. Mercado obtained search warrant § 87(2)(b) on § 87(2)(b) from Hon. § 87(2)(b) and ADA Kimberly Ryan. § 87(2)(e), § 87(2)(f)

The warrant was issued as a no-knock warrant (encl. 48-49).

### **CCRB Statement**

Det. Edward Mercado was interviewed at the CCRB on February 23, 2010 (encl. 50-52).

§ 87(2)(g) On September 16, 2009, at approximately 6:00 a.m., Det. Mercado entered § 87(2)(b) in Brooklyn to execute a search warrant. Det. Mercado was wearing a ballistic vest and helmet and carrying a bunker shield. He stated that this was not a joint operation with any other command or agency and no ATF officers were present. Det. Mercado was the first officer to enter the apartment. He went down the hallway and entered a bedroom, where he observed a male and female, identified through investigation as § 87(2)(b) and § 87(2)(b) on the bed. Det. Mercado instructed § 87(2)(b) and § 87(2)(b) to put their hands up. Once § 87(2)(b) and § 87(2)(b) had their hands up, the cuff and toss team entered the room and placed § 87(2)(b) and § 87(2)(b) in handcuffs. Det. Mercado did not assist in this. Det. Mercado searched the apartment. He did not know if there were other individuals or animals in the apartment. Det. Mercado denied committing all of the alleged misconduct or that he witnessed any other officer commit any of the alleged misconduct.

### **Witness Officer: SGT. DANIEL SBARRA**

- § 87(2)(b) year-old white male, 5'9" tall, 210 pounds, with brown hair and blue eyes.
- On the date of incident, assigned to Brooklyn North Narcotics, supervisor for the 81<sup>st</sup> Precinct Module. He worked from 4:25 a.m. to 1:00 p.m. in plainclothes and an unmarked rental vehicle.

### **Memo Book**

Sgt. Sbarra's memo book is summarized as follows: At 6:00 a.m., a search warrant was executed at § 87(2)(b) 3A. At 8:30 a.m., two arrests were voided (encl. 53-55).

### **CCRB Statement**

Sgt. Daniel Sbarra was interviewed at the CCRB on March 4, 2010 (encl. 56-57). His statement was consistent with the statement provided by Cpt. Lipetri with the exception of the following inconsistencies. On September 16, 2009, at approximately 6:00 a.m., Sgt. Sbarra entered § 87(2)(b) in Brooklyn to execute a search warrant. Sgt. Sbarra explained that no one was carrying a shotgun or rifle as they were not authorized to do so.

Sgt. Sbarra was shown the tactical plan and he believed that he was the third or fourth person to enter the apartment. The tactical plan stated that Sgt. Sbarra was assigned to cuff and toss, but he did not recall placing anyone in handcuffs. To his knowledge, no pepper spray was



used. Sgt. Sbarra stated that during a search warrant, the people who are detained are frisked. However, during this warrant, he did not observe anyone being frisked. Sgt. Sbarra explained that he interacted with § 87(2)(b) and § 87(2)(b) in the living room. To Sgt. Sbarra's knowledge, no civilians tried to enter the apartment. Sgt. Sbarra denied committing all of the alleged misconduct or that he witnessed any other officer commit any of the alleged misconduct.

**Witness Officer: DET. NURUDDIN ABDUR-RAHIM**

- § 87(2)(b) year-old black male, 5'10" tall, 185 pounds, with brown hair and brown eyes.
- On the date of incident, assigned to Brooklyn North Narcotics, a search warrant for the 81<sup>st</sup> Precinct Module. He worked from 4:27 a.m. to 1:00 p.m. in plainclothes and an unmarked rental vehicle.

**Memo Book**

Det. Abdur-Rahim's memo book is summarized as follows: At 5:00 a.m., there was a tactical meeting. At 6:00 a.m., the search warrant was executed at § 87(2)(b). At 8:30 a.m., two arrests were voided (encl. 58-59).

**CCRB Statement**

Det. Nuruddin Abdur-Rahim was interviewed at the CCRB on April 1, 2010 (encl. 60-61). § 87(2)(g)

On September 16, 2010, at approximately 6:00 a.m., Det. Abdur-Rahim entered § 87(2)(b) in Brooklyn to execute a search warrant. Det. Abdur-Rahim opened the front door to the building, followed the field team into the building and then the apartment.

When Det. Abdur-Rahim entered the apartment, he observed two males and one female, one male was possibly a child, but he was not positive, in handcuffs in the living room. He did not verbally or physically interact with the civilians during this incident and he did not recall them trying to interact with him. Det. Abdur-Rahim believed that there was a dog in the apartment as well, but he did not interact with the dog and did not know who might have. Det. Abdur-Rahim denied committing all of the alleged misconduct or that he witnessed any other officer commit any of the alleged misconduct.

**Medical Records**

On § 87(2)(b), at approximately 5:09 p.m., § 87(2)(b) went to the emergency room of § 87(2)(b). She left without obtaining treatment (encl. 77-80). She returned to § 87(2)(b) on § 87(2)(b) complaining of pain to her left shoulder, neck, and back that radiated to her left arm for approximately one week. § 87(2)(b) stated that she woke up with pain in her neck the previous week and it gradually worsened during activities. § 87(2)(b) has a history of back pain and hypertension. § 87(2)(b) was diagnosed with a muscle spasm in her neck, a decreased range of motion and pain. She was given Ibuprofen and a muscle relaxant (encl. 97-111).

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) complaining of swelling to his mouth and face. § 87(2)(b) was not bleeding and did not have any signs of trauma. It was not clear if he received treatment (encl. 81-89). § 87(2)(b) returned to § 87(2)(b) on § 87(2)(b). Despite attempts to obtain these records, they were never provided. At the time of his interview, § 87(2)(b) provided his discharge paperwork from September 30, 2009, which stated that § 87(2)(b) was diagnosed with a peripheral nerve disorder, which can be caused by a number of things. § 87(2)(b)

§ 87(2)(b) was given a pain medication and a note excusing him from work for approximately three weeks (encl. 65-68).

On § 87(2)(b) .., § 87(2)(b) went to § 87(2)(b) where she stated that her right arm was pulled and she was lifted by that arm by the police. § 87(2)(b) complained of mild pain and had swelling but no weakness or numbness. She was diagnosed with a muscle strain and given Ibuprofen (encl. 90-96).

### **NYPD Documents**

#### **Tactical Plan**

The tactical plan stated that Cpt. Michael Lipetri, Sgt. Daniel Sbarra, Det. Edward Mercado, Det. Nuruddin Abdur-Rahim, Det. Matthew Savage, Det. James Delumen, Det. Fawad Khan, Det. Frank Galati, Det. Andrew Erato, Det. Vincent Barese and PO Tina Everett were taking part in the execution of search warrant § 87(2)(b). Cpt. Lipetri was the commanding officer and no officer carried a shotgun. It was noted that there were possibly dogs, children and weapons in the apartment (encl. 117).

### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b)'s attorney, § 87(2)(b), filed a Notice of Claim with the City of New York on § 87(2)(b), alleging that on September 16, 2009, at 5:00 a.m., a gang of police officers kicked in their door and sprayed pepper spray throughout the apartment, affecting the entire family and the family dog. The entire family was assaulted and thrown on the floor. § 87(2)(b) was not fully clothed and when § 87(2)(b) complained about this, he was told, "Shut the fuck up," and was punched in the face. § 87(2)(b) was also stomped on by the officers. The entire family was handcuffed, interrogated and yelled at for six to seven hours without being read their Miranda rights. § 87(2)(b) and § 87(2)(b) were eventually allowed to leave the apartment so they could go to school, but they did not go to school as they were not allowed to wear their school uniforms. A warrant was never shown and no badge numbers or names were provided despite repeated requests for this information. The apartment was ransacked, televisions were destroyed and furniture was disassembled. The officers left without an explanation or compensation for the destroyed property. § 87(2)(b) and § 87(2)(b) were arrested without a warrant, probable cause, consent or suspicion of wrong doing. The officers acted in concert during this time and with intent to injure § 87(2)(b) and § 87(2)(b). They are seeking three million dollars plus attorney's fees as redress (encl. 65-72)

### **Civilians Criminal History**

- § 87(2)(b), § 87(2)(c)  
§ 87(2)(b)
- § 87(2)(b), § 87(2)(c)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b), § 87(2)(c)  
§ 87(2)(b)

- § 87(2)(b), § 87(2)(c) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### **Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2).
- This is the first CCRB complaint for § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) (encl. 3-6).

#### **Subject Officer CCRB History**

- Cpt. Lipetri has been a member of the service for 16 years and there is 1 substantiated CCRB allegation against him, for discourteous word, in case number 200201651, for which he received a command discipline. (encl. 1).

#### **Conclusion**

##### **Identification of Subject Officer**

- Cpt. Lipetri acknowledged that he supervised the entrance and search of § 87(2)(b) [REDACTED] in Brooklyn.
- § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

#### **Investigative Findings and Recommendations**

##### **Allegations Not Pleaded**

§ 87(2)(g) [REDACTED]  
[REDACTED]  
§ 87(2)(b) and § 87(2)(b) stated that they were informed by § 87(2)(b) that an officer pepper-sprayed the family dog and that the spray affected § 87(2)(b) as well. However, this allegation was hearsay, as none of the civilians who provided sworn statements witnessed the allegation themselves. § 87(2)(g) [REDACTED]  
[REDACTED]  
§ 87(2)(b) stated that after the incident, § 87(2)(b) was missing her tennis bracelet, wedding ring, benefit card and a cellular telephone. § 87(2)(b) did not make this allegation of missing property.

##### **Allegation A-Cpt. Michael Lipetri supervised the entrance and search of § 87(2)(b) [REDACTED] in Brooklyn.**

The officers entered this apartment pursuant to search warrant § 87(2)(b) that was obtained on § 87(2)(b), by Det. Mercado and was signed by Hon. § 87(2)(b) and ADA Kimberly Ryan. This search warrant was a no-knock warrant for guns (encl. 48-49) § 87(2)(g) [REDACTED]  
[REDACTED]

##### **Allegation B-Officers spoke obscenely to § 87(2)(b) and § 87(2)(b)**

##### **Allegation C-Officers used physical force against § 87(2)(b) and § 87(2)(b)**

##### **Allegation D-An officer tightly handcuffed § 87(2)(b)**

**Allegation F-Officers refused to provide their names and shield numbers to § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) alleged that a white male, who was 5'7" tall, and weighed approximately 180 pounds, stated, "Get on the fucking ground and show your hands." § 87(2)(b) was unable to provide a description for the officer who he heard state, "Hands. Hands. Get on the fucking floor." § 87(2)(b) alleged that she was lying face down in bed when a white male officer pulled her off of the bed by her arms, causing her pain. § 87(2)(b) alleged that the same officer who spoke obscenely upon entering the apartment was the officer who used physical force against her in the bedroom when placing her in handcuffs. § 87(2)(b) alleged that while in the bedroom, she observed an officer of unknown description punch § 87(2)(b) in the mouth. § 87(2)(b) described the officer who punched him in the mouth as being approximately 6'1" tall and weighing over 200 pounds. § 87(2)(b) alleged that this same officer then stood on § 87(2)(b)'s neck while she was being placed in handcuffs. In the bedroom, an officer of unknown description instructed § 87(2)(b) "Shut the fuck up." § 87(2)(b) alleged that as he was being walked into the living room, he yelled that his handcuffs were too tight. An officer of an unknown description tightened the handcuffs. § 87(2)(b) alleged that while he was in the living room, he asked the officers for their names. He was unable to provide descriptions of any of the officers who would not answer him. § 87(2)(b) also alleged that in the living room, a Hispanic male, who was 5'10" tall, weighed approximately 240 pounds, and had a low haircut, stated, "Shut the fuck up." § 87(2)(b) stated that in the hallway, she asked an unidentified officer for his badge number and he responded that he did not have to give her anything.

Neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) cooperated with viewing a photo array at the CCRB. Also, § 87(2)(b) and § 87(2)(b) were unable to provide detailed descriptions of the officers with whom they interacted, and the few descriptions that were provided could have been applied to more than one of the officers who executed the search warrant. In addition, § 87(2)(b) and § 87(2)(b) stated that some of the officers were wearing "ATF" jackets [Alcohol, Tobacco and Firearms]. However, the officers interviewed and the search warrant paperwork verified that the execution of the search warrant was not a joint operation with any other agency. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation E-An officer struck § 87(2)(b) with a shotgun.**

§ 87(2)(b) stated that at some point when he was in the living room, an officer hit him on the jaw with the back of a shotgun. He later stated that he was hit on his right cheekbone. § 87(2)(b) did not corroborate this allegation. She did state that § 87(2)(b) walked out of the bedroom after her and had an injury below his eye but that she did not observe how this occurred. Cpt. Lipetri, Det. Mercado, Sgt. Sbarra and Det. Abdur-Rahim all stated that they were not carrying shotguns for the execution of this warrant. Sgt. Sbarra stated that no officer was carrying a shotgun or rifle as they were not authorized to do so. The tactical plan stated that no shotguns were carried for the execution of this warrant. § 87(2)(g)

§ 87(2)(b) However, he consistently stated that this allegation occurred in the living room, where § 87(2)(b) was next to him for most of the interaction. § 87(2)(b) did not make this allegation. On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) complaining of swelling to his mouth and face. His medical records stated that he was not bleeding and did not show any signs of trauma. § 87(2)(b) did not remain in the hospital to receive treatment. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation G-An officer gestured obscenely toward § 87(2)(b) and § 87(2)(b)**  
§ 87(2)(b) alleged that when the incident ended, § 87(2)(b) was screaming out of the window at the officers while they were leaving. § 87(2)(b) was standing next to § 87(2)(b) while she did this and one officer allegedly turned around and raised his middle finger at § 87(2)(b) and § 87(2)(b). § 87(2)(b) admitted that she was screaming at the officers but did not corroborate that an officer raised his middle finger at them. In addition, this allegation was not mentioned in the notice of claim. § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

Team: 3 :

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date